

DAC

TRANSMITTAL LETTER

(General - Patent Pending)

Docket No.
14846 (VTN-551)

In Re Application Of: Olin Calvin, et al.

Application No. 09/923,562	Filing Date August 9, 2001	Examiner Donald H. Heckenberg	Customer No. 23389	Group Art Unit 1722	Confirmation No. 2560
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Title: APPARATUS AND METHOD FOR HANDLING LENS CARRIERS

COMMISSIONER FOR PATENTS:

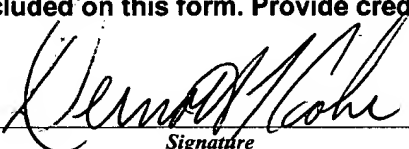
Transmitted herewith is:

Petition Under 37 C.F.R. 1.137(a) and Request for Reconsideration Statement

in the above identified application.

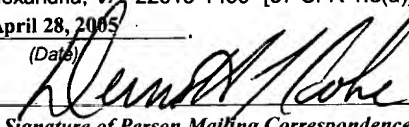
- ☐ No additional fee is required.
- ☒ A check in the amount of \$500.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 19-1013/SSMP as described below.
- ☐ Charge the amount of
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

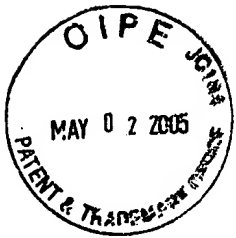

Signature

Dated: April 28, 2005

Dermott J. Cooke
Reg. No. 41,685
SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza - Ste. 300
Garden City, NY 11530
(516) 742-4343
DJC:jam

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450" [37 CFR 1.8(a)] on	
April 28, 2005	(Date)
	
Signature of Person Mailing Correspondence	
Dermott J. Cooke	
Typed or Printed Name of Person Mailing Correspondence	

CC:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Olin Calvin, et al.

Examiner: Donald H. Heckenberg

Serial No: 09/923,562

Art Unit: 1722

Filed: August 9, 2001

Docket: 14846 (VTN-551)

For: APPARATUS AND METHOD FOR
HANDLING LENS CARRIERS

Dated: April 28, 2005

Confirmation No.: 2560

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.137(a) and REQUEST FOR RECONSIDERATION

Sir:

In response to the Decision mailed March 18, 2005 for the above-identified application, Applicants submit this Petition Under 37 C.F.R. §1.137(a) and Request for Reconsideration. The appropriate fee accompanies this Petition. Accordingly, Applicants respectfully request the granting of this Petition together with the revival of the above-identified application, granting of the earlier filed September 20, 2004 Petition for Revival of Unavoidably Abandoned Application Under 37 C.F.R. §1.137(a) and entry of the Amendment submitted therewith.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 28, 2005.

Dated: April 28, 2005


Dermott J. Cooke

05/03/2005 RFEKADU1 00000029 09923562

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REMARKS

The Decision mailed March 18, 2005 dismissing Applicants' September 20, 2004 Petition indicates that the September 20, 2004 Petition was dismissed because it failed to establish the non-receipt of the December 15, 2003 Office Action that was presumably properly mailed to the Applicants' representative at the correspondence address of record, to wit:

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Ste. 300
Garden City, NY 11530

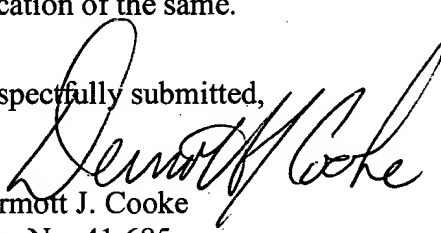
The Decision further states that such presumption may be overcome by a showing that the Office Action was not in fact received by the Applicants' representative at the correspondence address of record. To this end, a Statement from the Petitioner is attached attesting that the Applicants' representative has been and is Scully, Scott, Murphy & Presser located at the address indicated above, that a search of the file jacket for this matter was undertaken by the Applicants' representative, and that the Office Action was not received by the Applicants' representative until July 15, 2004, i.e., well after the time for responding to the December 15, 2003 Office Action, including all available extensions of time, had expired. Further, a copy of the Docket Records (Exhibit A) of the Applicants' representative is attached indicating the non-entry of the December 15, 2003 Office Action where the Office Action would have been entered in the normal course of business had it been received by Applicants' representative. Still further, a copy of the Docket Records (Exhibit B) of the Applicants' corporate assignee, Johnson & Johnson Vistakon of 7500 Centurion Parkway, Jacksonville, Florida is attached indicating the non-receipt of the December 15, 2003 Office Action where the Office Action would have been entered in the normal course of business had the Office Action been received at the Applicants' corporate assignee's offices.

The Statement and other evidence submitted herewith having overcome the presumption relied on to dismiss the earlier filed September 20, 2004 Petition for Revival of Unavoidably Abandoned Application Under 37 C.F.R. §1.137(a) and Amendment submitted therewith, reconsideration of this matter is thus respectfully requested.

To that end, withdrawal of the Decision dismissing the September 20, 2004 Petition and granting thereof including entry of the Amendment submitted therewith in reply to the December 15, 2003 Office Action, and further including the granting of the instant Petition is respectfully requested. The fee for this instant Petition, pursuant to 37 C.F.R. §1.17(l), is also enclosed.

Applicants' further kindly request an early indication of the same.

Respectfully submitted,


Dermott J. Cooke
Reg. No. 41,685

Scully, Scott, Murphy & Presser
400 Garden City Plaza - Ste. 300
Garden City, New York 11530
Telephone: (516) 742-4343
FSD/DJC/jam



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

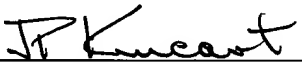
Applicants:	Olin Calvin, et al.	Examiner:	Donald H. Heckenberg
Serial No:	09/923,562	Art Unit:	1722
Filed:	August 9, 2001	Docket:	14846 (VTN-551)
For:	APPARATUS AND METHOD FOR HANDLING LENS CARRIERS	Dated:	April 28, 2005
Conf. No.:	2560		

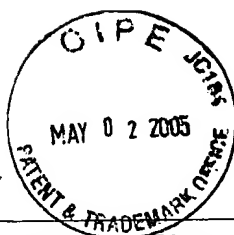
STATEMENT

Petitioner/Applicants, by and through their representative, attest to the following:

1. Petitioner/Applicants' representative for this matter is and has been Scully, Scott, Murphy & Presser located at 400 Garden City Plaza, Garden City, NY 11530 since the filing of this matter with the U.S. Patent and Trademark Office on August 9, 2001 to date.
2. Since the filing date of this matter, Petitioner/Applicants' representative has received and docketed correspondence from the U.S. Patent and Trademark Office with response due dates including all available extensions as evidenced by the Docketing Records labeled Exhibit A attached hereto.
3. Scully, Scott, Murphy & Presser did not receive the December 15, 2003 Office Action for this matter, as evidenced by the non-entry of such Office Action or response due dates or extensions into their Docketing Records per Exhibit A.
4. The Petitioner/Applicants' representative has conducted a search of the file jacket and docket records and determined that the December 15, 2003 Office Action was not received until after the time period for reply thereto, plus all available extensions (until June 15, 2004) had expired.
5. The Petitioner/Applicants' representative did not receive a copy of the December 15, 2003 Office Action until a fax copy of the same was received on July 15, 2004.
6. The Petitioner/Applicants' corporate assignee with respect to this matter has been and is Johnson & Johnson Vistakon located at 7500 Centurion Parkway, Jacksonville, Florida 32256 since the filing of this matter to date.

7. Johnson & Johnson Vistakon has received copies of U.S. Patent and Trademark Office correspondence from Petitioner/Applicants' representative relative to this matter and docketed response dates, including extensions of time, for such correspondence since the filing date of this matter to date.
8. Johnson & Johnson Vistakon did not receive the December 15, 2003 Office Action for this matter until after the time period for reply thereto, including all available extensions of time, had expired as evidenced by the non-entry of such Office Action or response due dates or extensions per Johnson & Johnson Vistakon Docketing Records labeled Exhibit B and attached hereto.
9. Johnson & Johnson Vistakon has conducted a search of their file jacket and Docketing Records for this matter and determined that the December 15, 2003 Office Action was not received until after the time period for reply thereto, plus all available extensions (until June 15, 2004) had expired.

Dated: April 28, 2005Signed: Dermott J. Cooke
U.S.P.T.O Reg. No.: 41,685Dated: April 18, 2005Signed: Joseph Kincart, Esq.
Johnson & Johnson Vistakon



Country Application

Tuesday, April 26, 2005

Case Number: 14846	Country: US	SubCase:
Docket Number: 14846	United States of America	
Matter Number: 02396	Case Type: ORD	<input type="checkbox"/> Terminal Disclaimer
Client: 772	Vistakon (J&J)	
Client Reference #:	Application Status: Abandoned	
Application Number: 09/923,562	Filing Date: 09-Aug-2001	
Publication Number:	Publication Date:	
Patent Number:	Issue Date:	
Parent/PCT Number:	Parent/PCT Date :	
Parent Patent Number:	Parent Issue Date :	
Tax Schedule: LE	Expiration Date:	
Confirmation #: 2560	PTA: 0	
Agent:		
Agent Reference No.:		
Owner:		
Attorney: DJC AS FSD		
Remarks: Information Disclosure Statement sent with Application 8/9/2001 Per our letter to client dated October 5, 2001, client will handle missing parts Petition to revive sent to PTO 17-Sep-2004 Abandoned per letter from PTO dated 17-Sep-2004		

EXHIBIT A

Country Application

Tuesday, April 26, 2005

List Of Actions

Action(s) Due	Due Date	Action Taken	Taken
Appln must be filed	09-Aug-2001	Due Date	09-Aug-2001 <input checked="" type="checkbox"/>
Postcard Received	05-Sep-2001	Due Date	<input checked="" type="checkbox"/>
Letter to Client	08-Oct-2001	Due Date	05-Oct-2001 <input checked="" type="checkbox"/>
Information Disc Stmt c/u	09-Oct-2001	Due Date	09-Aug-2001 <input checked="" type="checkbox"/>
Information Disclosure Stmt	09-Nov-2001	Due Date	<input checked="" type="checkbox"/>
Declaration	14-Nov-2001	Due Date	<input checked="" type="checkbox"/>
Drawing Corrections	14-Nov-2001	Due Date	14-Nov-2001 <input checked="" type="checkbox"/>
Declaration/1 EOT	14-Dec-2001	Due Date	<input checked="" type="checkbox"/>
Drawing Corrections/1 EOT	14-Dec-2001	Due Date	14-Nov-2001 <input checked="" type="checkbox"/>
Declaration/2 EOT	14-Jan-2002	Due Date	<input checked="" type="checkbox"/>
Drawing Corrections/2 EOT	14-Jan-2002	Due Date	14-Nov-2001 <input checked="" type="checkbox"/>
Declaration/3 EOT	14-Feb-2002	Due Date	<input checked="" type="checkbox"/>
Drawing Corrections/3 EOT	14-Feb-2002	Due Date	14-Nov-2001 <input checked="" type="checkbox"/>
Declaration/4 EOT	14-Mar-2002	Final	<input checked="" type="checkbox"/>
Drawing Corrections/4 EOT	14-Mar-2002	Final	14-Nov-2001 <input checked="" type="checkbox"/>
Status Chk	09-Feb-2003	Due Date	<input checked="" type="checkbox"/>
Restr-Response	02-Oct-2003	Due Date	02-Oct-2003 <input checked="" type="checkbox"/>
Letter to Client	07-Oct-2003		<input checked="" type="checkbox"/>
Restr-Response/1 EOT	02-Nov-2003	Due Date	02-Oct-2003 <input checked="" type="checkbox"/>
Restr-Response/2 EOT	02-Dec-2003	Due Date	02-Oct-2003 <input checked="" type="checkbox"/>
Restr-Response/3 EOT	02-Jan-2004	Due Date	02-Oct-2003 <input checked="" type="checkbox"/>
Restr-Response/4 EOT	02-Feb-2004	Due Date	02-Oct-2003 <input checked="" type="checkbox"/>
Restr-Response/5EOT	02-Mar-2004	Final	02-Oct-2003 <input checked="" type="checkbox"/>
Request for Reconsideration	18-May-2005	Due Date	<input type="checkbox"/>

User ID: Suzanne

Date Created: 02-Aug-2001

Last Update: 23-Sep-2004

[illegible]

EXHIBIT B

[illegible]